

Appl. No. : 10/667,580
Filed : September 22, 2003

REMARKS

By way of summary, the Office Action mailed February 14, 2006, restricted the claims pending in this application as follows:

Group I: Claim 1-4, drawn to various species of an implant with inflow and outflow portion with a particular dimension, an anchoring member, and a plurality of openings, classified in class 604, subclass 8.

Group II: Claims 5-6, drawn to a kit for delivering implants with an elongate body and an implant with inflow and outflow portions, plurality of openings, and anchoring member, classified in class 606, subclass 108.

Group III: Claims 7-11, drawn to a method for delivering an implant with an inflow and outflow portion, plurality of opening, and an anchoring member, classified in class 604, subclass 8.

Office Action, Page 2. Additionally, the Office Action stated the following with respect to Group I:

This application contains claims directed to the following patentably distinct species of the claimed invention:

- a. Species A: Claim 1, drawn to an implant with a first and second portion, intermediate portion, and openings.
- b. Species B: Claim 2, drawn to an implant with an inflow and outflow portion, plurality of openings, and an anchoring member.
- c. Species C: Claims 3-4, drawn to an implant with an inflow and outflow portion, a central portion, plurality of openings, and an anchor member.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Species A is held to be generic.

Office Action, Pages 3-4.

Accordingly, Applicants were requested to elect a Group for examination, and if Group I is selected, to also elect a species. Although Applicants do not necessarily agree with the

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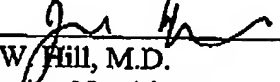
restriction requirement or with the characterization of the pending claims, Applicants elect without traverse Group I, Species B (Claim 2) for prosecution on the merits.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/14/06

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